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DOC FOR BIS/DEFENSE PROGRAMS DIVISION DIRECTOR WILLIAM DENK

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SUBJECT: ADVOCATING BOEING'S EX BID

¶1. In light of recent developments in the EX (Airborne Early Warning and Control Aircraft) program competition, this message provides Embassy Seoul's assessment and suggestions for the way forward.

¶2. Since Boeing received USG advocacy, Embassy Seoul has consistently and strenuously advocated solely on behalf of Boeing's EX program bid, emphasizing that Boeing provides the requisite level of interoperability to meet the security interests of both countries. Advocacy efforts and messages have been closely coordinated with Boeing Korea. The Ambassador has engaged relevant senior ROKG officials, including the Defense and Foreign Ministers, at every appropriate opportunity. At the working level, Embassy staff from JUSMAG, Pol/Mil and FCS have pursued strong advocacy with their respective counterparts. JUSMAG, in particular, has used their contacts with the Defense Acquisition Program Administration (DAPA) to encourage the Korean military to properly evaluate the competing bids for the EX program, pointing out basic questions that DAPA should be asking all bidders in order to achieve the best result from the bidding process, especially in regard to the requisite export licenses. At all times the Embassy message has been that the EX competition should be transparent, fair and conducted in a timely manner without further delay.

¶3. We also have emphasized that the USG is the only organization that can issue export licenses for items controlled by the U.S., that the license application process is an unbiased process and must go through due process and that the U.S. has never attempted to prevent an Israeli company or any other consortium from selling its aircraft to South Korea. We have noted that only the company receiving the license is authorized to speak about their specific license within the parameters of the instructions in the actual export license. However, after DRS (U.S. company participating in the Israeli Aircraft Industries (IAI) consortia) recently obtained a DSP-5 unclassified marketing license, the IAI representative in Korea has publicly claimed that IAI now has all the requisite licenses as required by the EX bid specifications. As far as post is aware, to-date the only license DRS has been granted was the DSP-5 unclassified marketing license which makes the claims by the

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IAI Korean representative inaccurate. The repeated news articles about the IAI claims have caused Boeing to be concerned about losing ground in the bidding process.

¶4. DAPA appears to be gaining an understanding of what a DSP-5 marketing license is and the kind of questions they should be asking both IAI and Boeing in the evaluation process for the respective project bids. However, at this point they do not know precisely what the DSP-5 license covers in relation to the EX program specifications. Many of

our contacts in DAPA, Ministry of National Defense (MND), and the ROK Air Force (ROKAF) have indicated that the Korean government is displeased by the IAI news claims and that they believe that Boeing is currently in a strong bidding position in terms of export licenses.

¶5. Embassy Seoul will be continuing strong advocacy with key ROK officials at every appropriate opportunity. However, at this time, we do not believe that public comments or advocacy in the media would be beneficial. We will focus our efforts on DAPA, which is the primary decision making authority on the EX bid, to make sure the agency has the information to determine whether the IAI bid has the capability to meet the tender specifications and program requirements. The EX program bids do not close until the end of April. Although Boeing currently appears to have the upper hand, if DRS receives further licenses, as required by the bid specifications, we would reexamine the Embassy advocacy position and adjust our strategy accordingly.

¶6. We plan to continue to use the following talking points in advocating Boeing's bid. We would appreciate any guidance on responding to IAI's claims regarding export licenses.

SOLE ADVOCACY

-- At this time, the US government solely endorses the Korean acquisition of the Boeing 737 Airborne Early Warning and Control Aircraft, which provides the requisite level of interoperability to meet the security interests of both countries.

-- The Boeing 737 option ensures interoperability with Korea's newly purchased F-15Ks, upgraded KF-16s, and potentially with other future aerospace developments/procurements.

-- The USG stands by sole advocacy on behalf of Boeing.

BID EVALUATION PROCEDURES

-- The USG promotes the transparent, fair, competitive and timely evaluation of the EX program bids which will also serve to build confidence in the new DAPA organization's capabilities and meet the requirements of the ROK government's procurement reform.

-- The USG does not support any further postponement of the EX program past June 2006. The EX procurement has already been delayed in December 2001, January 2005 and December ¶2005.

USG EXPORT LICENSE

-- The requirement to obtain USG export licenses for sensitive U.S. origin equipment is known by all defense contractors. Obtaining export licenses early on in a competition is critical in order to provide technical information required to meet the proposed solution.

-- The export license application system is an unbiased and clearly defined process. All applications, regardless of origin, go through due process and receive careful consideration. The U.S. has never attempted to use the export licensing process to prevent a company of any nationality, including Israel, from selling its aircraft to South Korea.

-- The USG does not comment on export licenses for a particular company. Export licenses are proprietary to the applicants who request them.

-- As part of the licensing process, the USG requires a signed contract before an export license will be issued. The approval of a marketing license is a good sign that a project

will ultimately be approved, however, it is not an approval for the final export of an item. A decision on final export approval will be made once the application has been submitted. If the sale is over a certain dollar value, it will also require Congressional notification.

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